IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

Bail Appl..No. 4194 of 2007()

CRIME NO.506/07 OF ADOOR POLICE STATION

PETITIONER/ACCUSED

MATHEW PATHISSERIL, AGED 65,
S/O VARGHESE PATHISSERIL,
ANANDEPPALLY P.O., ADOOR, KOLLAM.

BY ADV. SRI.B.RAMAN PILLAI
SRI.R.ANIL
SRI.RAJU RADHAKRISHNAN
SRI.ANIL K.MOHAMMED

RESPONDENTS: COMPLAINANT

STATE, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 4194 OF 2007

Dated this the 11th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations, inter alia, under Sec.3 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act.

2. The prayer for anticipatory bail is obviously not sustainable in view of the specific bar under Sec.18 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act. The learned counsel for the petitioner, in these circumstances, only seeks a lesser relief. He prays that there may be a direction to the learned Magistrate to consider the bail application on merits, in accordance with law and expeditiously. Merely because the offence is triable by a Court of Session, the learned Magistrate may not take the view that he is not jurisdictionally competent to consider the bail application. With that clarification and with a direction to

dispose of the matter on the date of surrender itself, this Court may dispose of the petition, it is submitted.

3. It is certainly for the petitioner to appear before the learned Magistrate and seek regular bail. The position of law has been laid down clearly in the decisions reported in **Ali v. State of Kerala (**2000 (2) K.L.T. 280); **Shanu v. State of Kerala** (2000 (3) K.L.T. 452); **Krishnakumar v. State of Kerala** (2005 (1) K.L.D. (Cri) 42 and **P.P. Kader v. State of Kerala** (2005 (1) K.L.D. (Cri) 250). I have no reason to assume that the learned Magistrate does not know the law or will not apply the law correctly. Regarding the expeditiously disposal also, I do not think any specific direction is necessary. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in Alice George v. Deputy Superintendent of Police (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate

must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge